



Town of Lexington Historical Commission

David Kelland, Chair
Marilyn Fenollosa
Wendall Kalsow
Frank Kern
Sally Zimmerman

1625 Massachusetts Avenue
Lexington, MA 02420
781-862-0500 Ext. 200

Demolition Delay By-Law Frequently Asked Questions

1. What is the Demolition Delay By-law?

Enacted by Town Meeting in 1986, amended by Town Meeting in 2007, and administered by the Historical Commission, Article I, Chapter 19 of the Code of Lexington (known as the demolition delay by-law) was designed to protect architecturally and historically significant buildings in Lexington from demolition. The by-law applies to those buildings listed on the National Register of Historic Places, in the Town's Comprehensive Cultural Resources Survey (the "Inventory") or those otherwise determined by the Commission to be significant in terms of period, style, method of building construction, or association with a famous architect or builder. The full text of Article I, Chapter 19 is available online at <http://ecode360.com/10420955>.

2. Why is the demolition delay set for 12 months?

The demolition delay imposed in the by-law's 2007 amendment is for the period of no longer than 12 months. During that time, it is hoped that the owner would make "continuing bona fide and reasonable efforts" to preserve, rehabilitate or restore the building or to locate a purchaser who would be willing to do so. The owner is granted a permit whenever he can establish that such efforts have been unsuccessful, even though it may be sooner than 12 months since the Commission's imposition of the demolition delay. The bylaw also states that if the owner can show, at any time, that there is no reasonable likelihood that the owner or some other person is willing to purchase, preserve, rehabilitate or restore the building, then he will be granted a demolition permit. If the owner chooses to do nothing, he will be granted a permit after 12 months.

3. What is a "bona fide and reasonable effort"?

This will be determined by the facts and circumstances of each individual case. Generally the Commission has permitted demolition on evidence of continued unsuccessful advertisements and open houses or offers with unacceptable conditions, or structural engineering reports, conditions assessments or other evidence of the unlikelihood or impracticability of preservation of the building.

4. Is the delay automatic for all properties on the Comprehensive Cultural Resources Survey?

No! All buildings on the Inventory are deemed “significant” under the definition section of the by-law. When the by-law was first drafted, the writers used listing on the National Register and in the Inventory as benchmarks for application of demolition delay. Before any delay can be imposed, a public hearing must be held and the Commission must decide whether the building should be preserved. This means that many owners of “listed” buildings are granted demolition permits *without delay* after the hearing, when the buildings have been so severely altered that they no longer maintain their architectural or historical significance.

5. *What is the difference between the Historical Commission and the Historic Districts Commission?*

The Historic Districts Commission has jurisdiction over all the buildings in the Town’s historic districts (Battle Green, Hancock-Clarke, East Village, Munroe Tavern), and requires prior approval to any exterior changes that can be seen from a public way. The Historical Commission has no such jurisdiction. It was formed under the Massachusetts General Laws “for the preservation, protection and development of the historical or archaeological assets” of Lexington. The Historical Commission exists to educate and celebrate with Lexington residents the rich architectural and historic significance of our cultural resources.

6. *I want to put on an addition. Does the demolition delay prevent this or require me to get permission?*

The demolition delay by-law only applies to “substantial demolition” as defined in Commission policy. “Substantial demolition” includes acts such as the removal of the roof or exterior architectural features and/or interior framing members of more than one exterior wall of a building, interior changes to a building that compromise the exterior architectural features of a building, or the lifting and relocation of a building to the same or a different site, [See the Commission’s website for additional information.] So an addition or other limited change, not involving substantial demolition, does not require Commission review. In fact, the Commission encourages appropriate additions to accommodate owner’s needs and avoid total demolition and rebuilding.

7. *My house is in the Inventory and therefore subject to the demolition delay bylaw; why wasn’t I notified?*

The inventory was created over the last 38 years as a public record of the architecturally and historically significant buildings and sites in Lexington. Standards for each record are set by the Massachusetts Historical Commission, which does not require notification. Nevertheless, as each major update was published, descriptive articles and photographs were published in the *Minuteman*. Individualized notices were sent to all owners of property listed and pending listing on the Inventory in 2007, and owners of additional listings were notified in 2011. Since then, all property owners have been notified prior to any listing on the Inventory, and have been given the opportunity to be heard at a public meeting on the matter. [This practice has been formalized in a Commission policy, posted on the Commission’s website.] In addition, the Master Index to the Inventory has been posted online, replacing earlier hard copies of the forms housed at Cary Library, the Planning Department and the Lexington Historical Society. Each realtor in town also has a copy of the index. With financial support from the Town, it is the Commission’s intention to remind all property owners of their listing from time to time in the future.

8. *Won't being in the Inventory – and therefore possibly subject to the demolition delay by-law, reduce the value of my house?*

No! Study after study indicates that the value of a property is actually enhanced by preservation protections. The demolition delay by-law also affords some comfort that your neighbors' homes will be similarly protected, thus maintaining neighborhood character.

9. *My house was built in 1960; how can it possibly be historic?*

Lexington is fortunate to have a number of architecturally-designed modernist homes, notably in Moon Hill, Five Fields and the Peacock Farm neighborhoods. These buildings are nationally renowned for their architectural significance and bring architectural historians to town to study and appreciate them. The Peacock Farm neighborhood has recently been listed on the National Register of Historic Places, and it is hoped that Moon Hill will soon join it in this important national archive.

Other factors that make a structure historic include integrity of location, design, setting, materials, workmanship, feeling and association, and:

- association with events that have made a significant contribution to the broad patterns of our history, or
- association with the lives of persons significant in our past, or
- embodiment of the distinctive characteristics of a type, period, or method of construction, or
- represent the work of a master, or that possess high artistic values, or
- represent a significant and distinguishable entity whose components may lack individual distinction, or
- those that have yielded, or may be likely to yield, information important in prehistory or history.

As stated by the Massachusetts Historical Commission, "Historic resources are not limited to the earliest surviving buildings in a community, to properties associated with prominent individuals or groups, or to properties that reflect unusual or outstanding design and construction. The typical buildings, structures, and sites associated with ordinary residents, businesses, or institutions all comprise the historic assets of a city or town."

Please contact the Historical Commission to discuss any questions or concerns you may have about your property. The Historical Commission can be reached at 781-862-0500 X-200.